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UNITED STATES DEPARTMENT OF AGRICULTURE
Agricultural Marketing Service

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TRADE TERMS AND DEFINITIONS UNDER THE PERISHABLE AGRICULTURAL COMMODITIES ACT

Regulation 8, promulgated by the Secretary for carrying out the provisions of the act, is devoted to trade terms and definitions. These terms and definitions represent trade customs which developed in the fruit and vegetable trade over a long period of years prior to the enactment of the act. They were submitted to and approved by the industry before being incorporated in the regulations. Unless otherwise defined, these terms when included in a contract or communication involved in any investigation made or hearing held pursuant to this act will be construed, respectively, to mean:

1. The term "TODAY'S SHIPMENT", or shipment on a specified date (such as shipment September 12), shall mean that the goods referred to shall be under billing by the transportation company the day the order is given or on the date specified in time to be picked up by a train scheduled to move that day's loadings from the shipping point provided that such train shall leave the first pick-up point on its schedule before midnight of the day the order is given.

2. The term "TOMORROW'S SHIPMENT" or "IMMEDIATE SHIPMENT" shall be deemed to mean that the shipment referred to shall be under billing by the transportation company in time to move on a transportation facility scheduled to leave not more than 24 hours later than allowed under "Today's shipment".

3. The term "QUICK SHIPMENT" shall be deemed to mean that the conditions of the offer, order, or confirmation will be met if the shipment is under billing by the transportation company in time to move on a transportation facility scheduled to leave not more than 48 hours later than that allowed under "Today's shipment".

4. The term "PROMPT SHIPMENT" shall be deemed to mean that the conditions of the offer, order, or confirmation will be met if the shipment is under billing by the transportation company in time to move on a transportation facility scheduled to leave not more than 72 hours later than allowed under "today's shipment".

5. The term "SHIPMENT FIRST PART OF WEEK" or "EARLY PART OF WEEK" shall be deemed to mean that the produce referred to shall be under billing by the transportation company in time to move on a transportation facility scheduled to leave Monday or Tuesday of the week specified, subject to the same provisions with reference to cars picked up after midnight of the day specified as apply to "Today's shipment".

6. The term "SHIPMENT MIDDLE OF WEEK" shall be deemed to mean that the produce referred to shall be under billing by the transportation company in time to move on a transportation facility scheduled to leave Wednesday or Thursday of the week specified, subject to the same provisions with reference to cars picked up after midnight of the day specified as apply to "Today's shipment".

7. The term "LAST OF WEEK" or "LATTER PART OF WEEK" shall be deemed to mean that the produce referred to shall be under billing by the transportation company in time to move on a transportation facility scheduled to leave on Friday or Saturday of the week specified, subject to the same provisions with reference to cars picked up after midnight of the day specified as apply to "Today's shipment".

8. The provisions "SHIPMENT AS SOON AS POSSIBLE" or "AS SOON AS CARS CAN BE SECURED" shall be deemed to mean that the shipper is uncertain as to when the shipment can be made but expects to make it within a reasonable time and will make it as soon as possible. But in any case where these words are so used the buyer shall, at any time after 12 days from the date the order is given, have the right to cancel the order or contract of sale provided notice of his decision so to cancel shall have been received by the shipper before shipment has been made.

9. The term "F.O.B." (for example, "F.O.B. LAREDO, TEX.", or even "F.O.B. CALIFORNIA") shall be deemed to mean that the commodity quoted or sold is to be placed free on board the car or other agency of through land transportation at shipping point, in suitable shipping condition (see definitions of "suitable shipping condition", pars. 10 and 11) and that the buyer assumed all risks of damage and delay in transit not caused by the shipper, irrespective of how the shipment is billed. The buyer has the right of inspection at destination before the goods are paid for, but only for the purpose of determining that the produce shipped complied with the terms of the contract or order at time of shipment subject to the provision covering suitable shipping condition. This right of inspection does not convey or imply any right of rejection by the buyer because of any loss, damage, deterioration, or change which has occurred in transit.

10. "SUITABLE SHIPPING CONDITION" in relation to direct shipments shall be deemed to mean that the commodity, at time of billing, shall be in a condition which, when shipment is handled under normal transportation service and conditions, will assure delivery without abnormal deterioration at the destination specified in contract of sale.

11. "SUITABLE SHIPPING CONDITION" in connection with reconsigned or rolling cars shall be deemed to mean that the commodity, at time of sale, shall meet the requirements of the definition of this phrase provided for application to direct shipments in paragraph 10.

12. The term "F.O.B. ACCEPTANCE" shall be deemed to mean the same as f.o.b. except that the buyer assumes full responsibility for the goods at shipping point and has no right of rejection on arrival, nor has he any recourse against the shipper because of any change in condition of the goods in transit, unless the goods when shipped were not in suitable shipping condition. (See pars. 10 and 11) The buyer's remedy under this method of purchase is by recovery of damages from the shipper and not by rejection of the shipment.

13. The term "F.O.B. ACCEPTANCE FINAL" shall be deemed to mean that the buyer accepts the commodity f.o.b. cars at shipping point without recourse.

14. The term "F.O.B. STEAMER" shall be deemed to mean that the commodity bought or sold is to be placed free on board the steamer at shipping point in accordance with the terms of the contract and that the buyer assumes all responsibility and risk of damage thereafter.

15. The term "F.A.S. STEAMER" shall be deemed to mean that the commodity bought or sold is to be delivered free alongside the steamer in accordance with the terms of the contract and that the buyer assumes all responsibility and risk of damage thereafter.

16. The term "DELIVERED" or "DELIVERED SALE" shall be deemed to mean that the commodity quoted or sold is to be delivered by the seller on board car, or on dock if delivered by boat, at the market in which the buyer is located, or at such other market as agreed upon, free of any and all charges for transportation or protective service. The seller assumes all risks of loss and damage in transit not caused by the buyer. For example, a sale of "U.S. No. 1 potatoes delivered Chicago" means that the potatoes when tendered for delivery at Chicago shall meet all the requirements of the U. S. No. 1 grade as to quality and condition.

17. The term "IN TRANSIT", "ROLLER", or "ROLLING CAR" shall be deemed to mean that the commodity referred to is in possession of the transportation company and under movement from shipping point when the quotation is made, and that the car is moving over a route in line of haul between the point of origin and the market in which delivery is to be made, and has been so moving since date of shipment without any delay attributable to the shipper or his agent. If a roller, or rolling car, or car in transit is sold f.o.b. shipping point, the buyer will be deemed to assume only the lowest authorized all-rail freight charges applicable between the point of origin and the destination stated in the contract of purchase, together with car rental and refrigeration and heater charges, if any; provided that the kind and extent of the protective service required by the shipper's instructions to the carriers are specified in the contract. But the buyer shall not be deemed to have assumed any demurrage, storage, detention, icing, or heater charges, or diversion or reconsignment charges, that would not have accrued had the car been originally shipped direct to the destination named in the contract of purchase.

If the carrier fails to accomplish diversion when properly notified, and such notification has been duly acknowledged by the carrier, the contract of sale shall be deemed to have become null and void unless otherwise specifically provided.

18. The term "TRAMP CAR" or "TRAMP CAR SALE" shall mean that the commodity has left the shipping point under a bill of lading issued prior to the day on which the quotation is made and has moved or is moving over a route out of line of haul with the market in which it is to be delivered or in which it is being offered or quoted, or which has been moving over a route in line of haul between the point of origin and the market in which it is to be delivered or in which it is being offered or quoted, but has been delayed in transit by the shipper, or has been held by the transportation company at diversion or other points en route awaiting instructions from the shipper and by such holding or delay has missed scheduled movement between points of shipment and the market in which it is to be delivered as the result of the

transaction in question. But if sold f.o.b. shipping point, the buyer assumes only the lowest authorized all-rail freight charges applicable between the point of origin and the destination stated in the contract of purchase, together with the car rental and refrigeration and heater charges, if any; provided, that the kind and extent of the protective service required by shipper's instructions to the carriers are specified in the contract. But the buyer shall not assume any demurrage, storage, detention, icing, or heater charges, or diversion or reconsignment charges, that would not have accrued had the car been originally shipped direct to the destination provided in the contract of purchase.

If the carrier fails to accomplish diversion when properly notified, and such notification has been duly acknowledged by the carrier, the contract of sale shall be deemed to have become null and void unless otherwise specifically provided.

19. The term "ROLLING ACCEPTANCE" shall be deemed to mean that the buyer accepts at time of purchase a commodity which is in the possession of the transportation company and under movement from shipping point, under the terms and conditions described in paragraphs 17 and 18, except that the buyer assumes full responsibility for transportation of the goods from time of purchase, has no recourse against the seller because of any change in condition after time of purchase unless the goods when shipped were not in suitable shipping condition, and has no right of rejection on arrival. The buyer's remedy under this method of purchase is by recovery of damages from the shipper and not by rejection of the shipment. By agreement between the parties, however, the purchase may be made subject to inspection at any specified point while the car is rolling or in transit and the point at which the buyer will assume transportation charges may be specified without affecting the time of acceptance of the commodity.

20. The words or term "TRACK SALE" or "SALE ON TRACK" shall be deemed to mean that when a commodity is sold on track after arrival at destination, the buyer shall be considered to have waived any right to reject the commodity so purchased upon receipt by him or his duly authorized representative, from the seller or his duly authorized representative, of the bill of lading, delivery order, or other document enabling him to obtain the goods from the carrier.

The foregoing shall not be construed as depriving the buyer of a right to reparation when the unloading of the car shall demonstrate that a part of the lading which was not accessible to inspection was of a quality or condition much inferior to that portion which was accessible to inspection; but notice of intention to file claim for reparation must be given seller within 24 hours after receipt by buyer of delivery order or bill of lading.

If the seller gives the date of arrival when quoting price, the buyer shall assume all charges that accrue on the shipment from the date of its arrival in the absence of any written memorandum of sale to the contrary. If the seller fails to furnish the date of arrival when quoting price, in the absence of any written memorandum of sale which includes the date of arrival or specific written statement as to who shall assume such charges as have accrued after arrival, the buyer may assume that the shipment arrived at point of sale on the day and date upon which the purchase was made and shall be

liable only for such charges as would properly attach to a shipment arriving on date it was purchased.

21. The abbreviations "C.A.F.", "C.A.C.", and "C.I.F." shall be deemed to mean "cost and Freight," "cost and charges", and "Cost-insurance and freight", respectively. When a sale is made c.a.f. it shall be deemed to mean the same as an f.o.b. sale except that the selling price includes the correct freight charges to destination. C.a.c. sales shall be deemed to be the same as f.o.b. sales except that the selling price includes the correct freight and refrigeration or heater charges to destination. C.i.f. sales shall be deemed to be the same as f.o.b. sales except that the selling price includes insurance and the correct freight, refrigeration, or heater charges to destination.

22. A "CARLOAD" or "CARLOT" or "CAR" when referred to in offers, quotations, or sales in which the quantity is not more definitely specified, and in the absence of well-established trade custom or standard as to size of a "carload" of the commodity in question, shall be deemed to mean not less than the lowest minimum quantity required by the carrier's tariff applicable to the movement, and not more than 10 percent in excess of such lowest minimum tariff requirements, except that where carrier's tariffs provide alternative rates and minima, the buyer shall state which tariff minimum must be observed, and in event of failure so to do, the shipper may exercise his discretion, in no case, however, exceeding the higher tariff minimum quantity, except only such variations therefrom as are permitted in this paragraph.

23. The term "SHIPPING-POINT INSPECTION" shall be deemed to mean that the seller is required to obtain Federal or Federal-State certification, or such private inspection as has been mutually agreed upon, to show the compliance of the lot sold with the quality and/or condition specifications of the contract and that the seller assumes the risk incident to incorrect certification.

24. The term "SHIPPING-POINT INSPECTION FINAL" or the words "INSPECTION FINAL" following the name of the State or point as "California inspection final", shall be deemed to mean that the seller is required to obtain Federal or Federal-State certification, or such private inspection as has been mutually agreed upon, to show the compliance of the lot sold with the quality and/or condition specifications of the contract and that the buyer assumes the risk incident to incorrect certification and is without recourse as to quality and condition.

25. The term "SUBJECT APPROVAL WIRED GOVERNMENT INSPECTION" shall be deemed to mean that the seller is required to obtain Federal or Federal-State certification, or such private inspection as has been mutually agreed upon, and to correctly communicate, by wire or other agreed means, the statements on the certificate as to quality, condition, and grade, and other essential information, whereupon the purchaser upon approval thereof will be deemed to have accepted the commodity without recourse as to quality and condition.

26. The term "GUARANTEED ADVANCE", as used in connection with an advance payment on consigned produce, shall be deemed to mean that the party making the advance guarantees that the net proceeds to the consignor shall at

least equal the amount so advanced, and in any case where a guaranteed advance is made the consignor cannot be held liable for any deficit resulting from the sale of the produce, if such deficit is not occasioned by or contributed to by some act or acts of the consignor.

27. The term "ACCOMMODATION ADVANCE", or "REGULAR ADVANCE", as used in connection with an advance of money or credit against anticipated net proceeds to be realized from the sale of consigned produce, shall be deemed to mean that the shipper has received an advance of money or credit and if the consigned produce does not sell for enough to cover the cost of transportation and handling, including customary or agreed commission and the advance made to him, the shipper must return to the one making the advance a sum equal to the deficit sustained.

28. The term "PRICE ARRIVAL", in the absence of a contrary specific understanding, shall be deemed to mean that the produce is shipped either direct to the customer or to an agent of the shipper, for the benefit of the customer, the price to be subject to agreement between the customer and the shipper upon the arrival of the goods at the customer's destination and with sufficient time being permitted for inspection.

29. The term "F.O.B. INSPECTION AND ACCEPTANCE ARRIVAL" shall be deemed to mean that the commodity quoted or sold is to be placed by the seller free on board car or other agency of through transportation at shipping point, the cost of transportation to be borne by the buyer, but the seller to assume all risks of loss and damage in transit not caused by the buyer who has the right to inspect the goods upon arrival and to reject them if upon such inspection they are found not to meet the specifications of the contract of sale at destination. The buyer may not reject without reasonable cause. Such a sale is f.o.b. only as to price and is on a delivered basis as to quality and condition.

30. The term "F.O.B. SALE AT DELIVERED PRICE" shall be deemed to mean the same as f.o.b. except that transportation charges from shipping point to destination shall be borne by the seller, that is, the sale is f.o.b. as to quality and delivered as to price.

